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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 DEFENDERS OF WILDLIFE, et al.,

13 Plaintiffs,

14 vs.

15 U.S. FISH AND WILDLIFE SERVICE, et
16 al.,

17 Federal Defendants.

Case. No. 3:21-cv-00344-JSW

**UNOPPOSED ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED**

18
19 Civil L.R. 3-12 and 7-11 require a party to file an administrative motion when it believes
20 two cases are “related” as that term is defined in Civil Local Rule 3-12(a). *See* Civil L.R. 3-
21 12(b). This case (*Defenders of Wildlife v. U.S. Fish and Wildlife Serv.*, 3:21-cv-344-JSC) is
22 “related” to two later-filed actions in this district—*WildEarth Guardians, et al., v. de la Vega*,
23 3:21-cv-349-WHA, and *Natural Resources Defense Council v. U.S. Department of the Interior*,
24 3:21-cv-00561-SK.¹ Under Civil L.R. 3-12(d)(2), the “brief statement of the relationship of the
25 actions according to the [two] criteria set forth in Civil L.R. 3-12(a)” is as follows:
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27

28 ¹ Scott de la Vega is the acting Secretary of the Department of Interior and is automatically substituted for his predecessor under Federal Rule of Civil Procedure 25(d).

1 1. Civil Local Rule 3-12(a)(1) provides that an action is related to other actions
 2 when they “concern substantially the same parties, property, transaction or event.” Here,
 3 *Defenders of Wildlife* (21-cv-344), *WildEarth Guardians* (21-cv-349), and *Natural Resources*
 4 *Defense Council* (21-cv-561) challenge the same final rule promulgated by the U.S. Fish and
 5 Wildlife (FWS) that removes gray wolves from the Endangered Species Act’s (ESA) list of
 6 endangered and threatened wildlife (Final Rule, 85 Fed. Reg. 69778 (Nov. 3, 2020)). *See*
 7 *Defenders of Wildlife*, 21-cv-344, ECF 1 ¶ 1; *WildEarth Guardians*, 21-cv-349, ECF 1 ¶ 2;
 8 *Natural Resources Defense Council*, 21-cv-561, ECF 1 ¶ 1. The three actions therefore involve
 9 the same Federal Defendants (FWS, Secretary of the Department of the Interior), the same
 10 subject matter (gray wolves), and the same “transaction or event” (FWS’s Final Rule).

11 2. Civil L.R. 3-12(a)(2) also provides that a case is related when judicial review of
 12 the two actions before different judges would result in an “unduly burdensome duplication of
 13 labor and expense” or risk “conflicting results.” The three actions raise the same or substantially
 14 similar claims relief under the ESA and Administrative Procedure Act (APA). *Defenders of*
 15 *Wildlife*, 21-cv-344, ECF 1 ¶¶ 37-71 (First through Fourth Claims, raising substantive challenges
 16 to the Final Rule); *WildEarth Guardians*, 21-cv-349, ECF 1 ¶¶ 92-170 (First through Sixth
 17 Claims, raising substantive challenges to the Final Rule); *Natural Resources Defense Council*,
 18 21-cv-561, ECF 1 ¶¶ 90-142 (First through Seventh Claims, raising substantive challenges to the
 19 Final Rule).² These claims are subject to the APA’s judicial review provision, 5 U.S.C. § 706,
 20 which requires a reviewing court to base its review on the agency’s administrative record. *See*
 21 *Ctr. for Biological Diversity v. Zinke*, 868 F.3d 1054, 1057 (9th Cir. 2017) (“Review of agency
 22 decisions under the ESA is governed by the” APA) (citing *Greater Yellowstone Coal., Inc. v.*
 23 _____).

24 ² *Defenders of Wildlife* (21-cv-344) contains one claim for relief not present in the other
 25 complaints—a challenge to a petition finding FWS made in the same challenged Final Rule. *See*
 26 ECF 1 ¶¶ 72-74. *WildEarth Guardians* (21-cv-349) and *Natural Resources Defense Council* (21-
 27 cv-561) also contain a notice and comment claim that is not present in the *Defenders of Wildlife*
 28 (21-cv-344) complaint. *See* ECF 1 in 21-cv-349, ¶¶ 171-78; ECF 1 in 21-cv-561, ¶¶ 143-47.
 These differences are not material to the related case inquiry, as these claims still arise from the
 same agency action—FWS’s Final Rule—and are subject to review on the basis of the same
 administrative record.

1 *Servheen*, 665 F.3d 1015, 1023 (9th Cir. 2011)). The three actions therefore require a court to
2 review the same evidence (administrative record) to resolve the same and substantially similar
3 claims for relief (ESA, APA), such that substantial judicial efficiencies are gained and the risks
4 of conflicting results avoided by assigning the three actions to a single judge.

5 For the reasons set forth above, this action is related to *WildEarth Guardians*, 21-cv-349,
6 and *Natural Resources Defense Council*, 21-cv-561, within the meaning of Civil Local Rule 3-
7 12(a).

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9 DATED: February 8, 2021.

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UNITED STATES DISTRICT COURT
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DEFENDERS OF WILDLIFE, et al.,

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Federal Defendants.

Case No. 3:21-cv-00344-JSW

CERTIFICATE OF SERVICE

WILDEARTH GUARDIANS, et al.,

Plaintiffs,
vs.

DE LA VEGA, et al.,

Federal Defendants.

Case. No. 3:21-cv-00349-WHA

CERTIFICATE OF SERVICE

NATURAL RESOURCES DEFENSE
COUNCIL, et al.,

Plaintiffs,
vs.

U.S. DEPARTMENT OF THE INTERIOR, et
al.,

Federal Defendants.

Case. No. 3:21-cv-00561-SK

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record. I also certify that I caused to be sent, via electronic mail, the foregoing to the following counsel of record:

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